

CITY OF SALEM, OREGON,	:	Order Dismissing Appeals as Moot
Appellant	:	
	:	
COMMUNITY DEFENSE COUNCIL and	:	
MARK ATWOOD,	:	
Appellants	:	
	:	Docket Nos. IBIA 93-33-A
v.	:	IBIA 93-41-A
	:	
PORTLAND AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	February 19, 1998

These are appeals from an October 21, 1992, Finding of No Significant Impact issued with respect to the proposed trust acquisition of a 16-acre tract near Salem, Oregon, for the benefit of the Confederated Tribes of Siletz Indians of Oregon (Tribes).

The Tribes' trust acquisition request, made for the purpose of establishing a gaming facility, was subsequently denied by the Assistant Secretary - Indian Affairs, because the Governor of Oregon declined to concur under 25 U.S.C. § 2719(b)(1)(A). The Tribes challenged the denial in Federal court, contending that the gubernatorial concurrence provision in 25 U.S.C. § 2719(b)(1)(A) was unconstitutional.

In light of the Tribes' lawsuit, the parties to these appeals requested that the Board stay proceedings here. They stated: "All appellants and appellee agree that if the Assistant Secretary's decision [to deny the Tribes' trust acquisition application] is upheld, these appeals should be dismissed as moot." Joint Request for Consolidation and Stay at 2. On March 2, 1993, the Board consolidated these appeals and stayed proceedings in both.

On March 31, 1997, the United States Court of Appeals for the Ninth Circuit upheld the Assistant Secretary's denial of the Tribes' trust acquisition application, upon finding the gubernatorial concurrence provision in 25 U.S.C. § 2719(b)(1)(A) constitutional. On December 15, 1997, the Supreme Court denied the Tribes' petition for certiorari. Confederated Tribes of Siletz Indians v. United States, 110 F.3d 688 (9th Cir. 1997), cert. denied, 118 S.Ct. 625 (1997).

By order dated December 24, 1997, the Board requested the parties to inform it as to any reason why these appeals should not be dismissed as moot.

The Area Director states that he knows of no reason why the appeals should not be dismissed as moot. Appellants have not informed the Board of any reason why the appeals should not be dismissed.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, these appeals are dismissed as moot.

Anita Vogt
Administrative Judge

Kathryn A. Lynn
Chief Administrative Judge